

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

BILLY BRANTLEY, et al.,	)	CASE NO. C-1-01-378
	)	
Plaintiffs,	)	PARTIES' COURT ORDERED
	)	JOINT STATUS REPORT
v.	)	
	)	
CINERGY CORP.,	)	
	)	
Defendant.	)	

1. Nature of Case and Claims Asserted:

This action was filed on June 6, 2001 on behalf of four plaintiffs who assert claims of race discrimination in employment, including claims based on denied promotions and, allegedly, a hostile work environment, discriminatory terms and conditions of employment, discriminatory discipline, and Plaintiff Rodney Jones' alleged constructive discharge. Plaintiff, Todd Tolbert, also asserts claims of disability discrimination under the Americans with Disabilities Act. New counsel, David W. Sanford, Eric Bachman and Charles Dixon of the then law firm of Gordon, Silberman, Wiggins & Childs, P.C.; Grant Morris of the law offices of Grant Morris; and local counsel, Paul Tobias and David Kammer of the law firm of Tobias, Kraus & Torchia, L.L.P., entered an appearance as new counsel on August 9, 2002.

An original discovery cut-off date of August 30, 2002 was extended, over objection, to May 30, 2004. Defendant completed written and deposition discovery and filed a Motion to Sever on February 28, 2003 which was fully briefed. Defendant filed a Motion to Compel on June 30, 2003. It also originally filed Motions for Summary Judgment as to each named Plaintiff with associated submissions on August 1, 2003.

An Agreed Entry Staying Litigation was submitted on January 8, 2004. An Order Staying the case wherein the pending motions were dismissed without prejudice to resubmission in the event that settlement is not consummated was entered of record on January 8, 2004. Defendant, Cinergy Corp.'s, Motion to Set Aside Litigation and Requesting Briefing Schedule and Hearing on Pending Motions was filed on May 5, 2005 and Plaintiffs' Motion for a Status/Scheduling Conference was filed on May 11, 2004. Both were fully briefed. By Order dated July 20, 2004, Judge Dlott granted Defendant's Motion to set aside the stay; denied Plaintiff's request to extend the discovery deadline a second time; and ordered that Defendant re-file any Motions on or before August 2, 2004; Plaintiffs file their responses on or before August 26, 2004; and Defendant file its reply on or before September 9, 2004.

Additional counsel on behalf of Plaintiffs, Susan Donohue\*, Ann K. Wiggins\*, Robert L. Wiggins\* and Robert F. Childs\*, Barry Vaughan Frederick and Herman Nathaniel Johnson, Jr. of the law firm of Wiggins, Childs, Quinn & Pantazis, P.C. moved to admit in this case on April 12, 2004\*, May 17, 2004 and June 3, 2004 respectively and Notice of Additional Counsel on behalf of Defendant, Gregory V. Mersol of the law firm of Baker & Hostetler LLP was filed on May 27, 2004.

Defendant re-filed the Motion to Sever Plaintiffs' Claims it had originally filed on February 28, 2003, as well as its summary judgment motions as to each plaintiff. Plaintiffs sought and received, with Cinergy's consent, two motions for extensions of time to respond to Cinergy's motions. Plaintiffs filed their Memoranda in Opposition and associated submissions on September 23, 2004. By Court Order, Defendant's Reply Memoranda are due on October 28, 2004.

## 2. Settlement Efforts:

There were no settlement efforts prior to filing this action. On or about April 30, 2002, Defendant conducted a mediation with prior counsel, William P. Whalen, Jr., which was unsuccessful. Plaintiff's counsel, David Sanford and Grant Morris, had been in contact with the named Plaintiffs at this time. Despite Defendant's denial of liability and denial that class certification is proper, the case was stayed pending final approval of the settlement in the state class action. It is the Defendant's position that the parties reached and the plaintiffs reneged on a global settlement of this action and two other lawsuits other plaintiffs have pending against defendant, both of which also involve claims of race discrimination and employment, one of which is a putative class action. Plaintiffs, here and in the other two cases, contend that they never agreed to a settlement. Defendant has not filed a motion to enforce the settlement in the putative state class action but filed a Motion for Attorneys' Fees and Costs in that action on July 1, 2004.

3.
  - a. Discovery cut off on October 28, 2002.
  - b. The Dispositive Motions Deadline was August 2, 2004.
  - c. Settlement Conference-  
No date has been set for a settlement conference.
  - d. Final Pre-Trial-  
No date has been set the final pre-trial conference.
  - e. Trial-  
The court has not set a date for trial.

4. Defendant's Motion to Compel was re-filed on July 29, 2004. Plaintiffs have not filed a memorandum in opposition, nor supplemented their responses to date.

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